REMARKS

Presently, claims 1-36 and 50-69 are pending in the application. A Request for Continued Examination ("RCE") under 37 C.F.R. §1.114 is being filed herewith. Claims 37-49 have been canceled. Independent claims 1, 22, 50 and 54 have been amended to more particularly point out the present invention. Support for the features added to independent claims 1, 22, 50 and 54 may be found, for example, in the paragraph bridging pages 8-9 of the specification. Claims 2, 6, 8 and 23 have been amended to correct formal errors noted by Applicant and to be consistent with their respective independent claims. New dependent claims 58-69 have been added to depend from independent claims 1, 22, 50 and 54. Support for the features of new dependent claims 58-69 may be found, for example, at page 17, lines-7-21 and at page 18, line 20 – page 19, line 8 of the specification. Accordingly, no new matter has been added to the application by the foregoing amendments.

Prior Art Rejections – § 103(a)

The Examiner has rejected claims 1-4 and 9-21 under 35 U.S.C. §103(a) as being unpatentable over Applicant's admitted prior art of an advertisement being used in an EPG ("Applicant's Prior Art") in view of U.S. Patent Application Publication No. 2003/0145323 to Hendricks *et al.* ("Hendricks"). Based on the Examiner's 'Response to Arguments' at page 2 of the present Office Action, the Examiner's arguments at page 5 of the present Office Action, and the Examiner's arguments at page 2 of the previous Office Action dated May 7, 2004, it appears that the Examiner considers Applicant's Prior Art to be that the use of EPGs having inserted advertisements is well known in the art, as described at page 2, lines 22-24 of the specification. The Examiner does not rely on any additional prior art as taught by Applicant in making this rejection. The Examiner contends that Hendricks teaches a system for presenting targeted advertisements to viewers based on viewer characterization and attempts to deliver advertisements that might best suit viewers with common interests. The Examiner concludes that it would have been obvious to one of ordinary skill in the art to combine the teachings of

Hendricks with Applicant's Prior Art to result in Applicant's claimed invention. Applicant respectfully traverses this rejection.

Hendricks teaches a system for providing television programming and targeted advertisements to consumer's homes. In Hendricks, information is sent from a program controller to local storage and/or real-time display in a consumer's terminal. The stored information may include control information, programming and/or advertisements. Additionally, Hendricks discloses that information related to users' preferences and/or viewing actions or habits may be gathered, observed, retrieved and analyzed, such that a particular consumer terminal may be assigned to a desired target category. The target category, based for example on demographic information about one or more individual viewers, is utilized to determine which advertisements to target at a consumer or group(s) of consumers. The consumer groups may be modified in view of new or changing target criteria. Hendricks teaches that there are several different methods of conveying the desired advertisements to the audience, including sending and storing the targeted advertisements at the user's terminal prior to display. When a designated program break occurs, the locally stored advertisement is retrieved and displayed.

Independent claim 1, as amended, recites:

> An advertisement management system (AMS) for inserting targeted advertisements in an electronic program guide (EPG), the system comprising:
>
> an advertisement characterization module configured to characterize one or more advertisements to be transmitted to one or more subscribers within the EPG;
>
> a subscriber characterization module configured to characterize the subscribers receiving the EPG, wherein the subscriber characterization module is configured to allow the subscribers to access their respective characterizations; and
>
> an EPG correlation module configured to correlate the advertisements to the subscribers whereby suitable advertisements are inserted in the EPG. (emphasis added)

As discussed above, the Examiner only relies on Applicant's Prior Art for the teaching of an advertisement being used in an EPG. Accordingly, Applicant's Prior Art does not teach or suggest all of the features recited in independent claim 1.

Hendricks does not teach or suggest a subscriber characterization module that is configured to "allow the subscribers to access their respective characterizations." Although Hendricks teaches a system that gathers and/or observes user information, such as demographic information, to help create a viewer profile to group or categorize the viewer, Hendricks does not teach that the viewer is able to access that profile or categorization. Stated differently, Hendricks' profiling and subsequent grouping of viewers may be based on information that is *supplied* to the system by viewers (see paragraphs [0433-0434]). However, even though that profile or categorization may be subsequently updated, there is no teaching in Hendricks that the viewer has the ability to review, revise, verify or otherwise access the profile, categorization or any other viewer characterization created by Hendricks' system. Accordingly, Hendricks does not teach or suggest all of the features of independent claim 1.

Not only does neither Applicant's Prior Art nor Hendricks individually teach all of the features of independent claim 1, but a combination of these references does not result in Applicant's claimed invention. That is, even if Applicant's Prior Art and Hendricks are properly combinable, such a combination still lacks the teaching of a subscriber characterization module that is configured "to allow the subscribers to access their respective characterizations," as recited in independent claim 1. Accordingly, independent claim 1 is believed to be allowable over the combination of Applicant's Prior Art and Hendricks.

Dependent claims 2-4, 9-21 and 58-60 are allowable at least by their dependency on independent claim 1. Reconsideration and withdrawal of the Examiner's rejection of claims 1-4 and 9-21 are respectfully requested.

The Examiner has rejected claims 5-8 and 22-49 as being unpatentable over Applicant's Prior Art in view of Hendricks and further in view of U.S. Patent Application Publication No. 2003/0208756 to Macrae *et al.* ("Macrae"). Although not explicitly

stated by the Examiner, it appears from the Examiner's arguments that the Examiner intended to also reject claims 50-56. Applicant respectfully traverses this rejection.

As discussed above with respect to the Examiner's rejection over Applicant's Prior Art in view of Hendricks, the combination of these references does not teach or suggest all of the features of independent claim 1. Applicant respectfully submits that Macrae does not teach or suggest the deficiencies missing from this combination.

Macrae teaches improvements to electronic program guides ("EPGs"), including viewer interaction capabilities, opportunities for advertisers to reach viewers and creating of viewer profiles. Macrae's system allows the viewer to interact with the EPG, including selecting programming (including advertisements) for viewing and/or recording. The user may also interact with the EPG by scrolling through the listings which are not displayed on the initial screen. The EPG in Macrae collects information about the viewer, either by obtaining the requested information directly from viewer input or by learning the desired information by recording the viewer's "actions and circumstances surrounding those actions" with the EPG (see paragraph [0298] of Macrae). Macrae teaches that a "viewer profile analysis program" performs a "simple statistical analysis" of the collected data and, combined with the viewer's profile information, develops "viewer characteristics" (see paragraphs [0305-0306] of Macrae). The profile analysis program also compares one viewer profile to other viewer profiles to further aid in displaying similar content to similar viewers. Macrae then uses the viewer characteristics to customize the EPG, so that the viewer is presented with programming and/or advertisements that are likely to be of interest, both in terms of content and order of display. Macrae also teaches that the EPG may display advertisements based on specific programming that the viewer is currently watching or that certain advertisements may be assigned to particular "classes" of programming.

Macrae does not teach or suggest a subscriber characterization module that is configured to "allow the subscribers to access their respective characterizations." In Macrae, the user has the ability to access program information and product information through the EPG. Some of these user interactions are used by Macrae to generate viewer preferences. However, although Macrae's EPG customization system gathers user

information, including by obtaining information directly from the viewer, to help create a viewer profile or viewer characteristics, Macrae does not teach that the viewer is able to access that profile or preference. That is, there is no teaching in Macrae that the viewer has the ability to interact with the preference or profile that Macrae's profile analysis program creates. Furthermore, the fact that the viewer's information (and thus profile or preferences) may be subsequently updated to reflect new or different information about the viewer, there is still no teaching in Macrae that the viewer is able to interact with the profile. Thus, Macrae does not teach or suggest all of the features of independent claim 1. As such, independent claim 1 is believed to be allowable over the combination of Applicant's Prior Art, Hendricks and Macrae, since such a combination lacks the teaching of at least a characterization module that is configured to "allow the subscribers to access their respective characterizations."

Independent claims 22, 50 and 54 each recite methods that include the step of "characterizing one or more subscribers of a content delivery network, wherein the subscribers have access to their respective characterizations." Thus, for the same reasons discussed above with respect to independent claim 1, Applicant respectfully submits that independent claims 22, 50 and 54 are allowable over the combination of these Applicant's Prior Art, Hendricks and Macrae.

Claims 1-8, 23-36, 51-53 and 55-69 are allowable at least by their dependency on independent claims 1, 22, 50 and 54, respectively. Claims 37-49 have been canceled. Reconsideration and withdrawal of the Examiner's obviousness rejection of claims 5-8 and 22-49 are respectively requested.

Taking of Official Notice

The Examiner has taken Official Notice with respect to claims 10 and 11 that the use of databases that are internal or external to a system is well known (see pages 6-7 of the Office Action); with respect to claim 16 that weighted average and the sum of squares are well known statistical methods models used for estimating probability of a particular event (page 8 of the Office Action); and with respect to claim 21 that a broadcaster charges an advertiser an amount proportional to the number of audience it reaches (page

9 of the Office Action). However, Applicant disagrees that there are "facts outside of the record which are capable of instant and unquestionable demonstration as being 'well-known' in the art," as required by M.P.E.P. §2144.03, which would support an Examiner's finding of Official Notice.

To the extent that the Examiner's taking of Official Notice may be applied to any of the pending claims, Applicant respectfully traverses the Examiner's taking of Official Notice, and respectfully requests that the Examiner support the taking of Official Notice by producing a relevant reference(s) that shows/teaches the above-identified assertions, and that the Examiner identify a specific teaching in such reference(s) to support a combination with Applicant's Prior Art, Hendricks and/or Macrae.

Conclusion

In view of the foregoing amendments and remarks, Applicant respectfully submits that the Examiner's rejections have been overcome, and that the application, including claims 1-36 and 50-69, is in condition for allowance. Reconsideration and withdrawal of the Examiner's rejections and an early Notice of Allowance are respectfully requested.

Respectfully submitted,

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